

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JEFFREY ERIC SCHAEFER,

Plaintiff,

Case No. 13-cv-13669

v.

HONORABLE STEPHEN J. MURPHY, III

M.J. MODELSKI,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION
(document no. 47), **GRANTING MODELSKI'S MOTION FOR**
SUMMARY JUDGMENT (document no. 42), **AND DENYING AS**
MOOT ALL OUTSTANDING MOTIONS (document nos. 29, 30, 35, 36, 37)

Pro se Plaintiff Jeffrey Eric Schaefer alleges Defendant M.J. Modelski discriminated against him for religious reasons during an administrative hearing concerning Schaefer's eligibility for a driver's license. In addition to his claims under the First and Fourteenth Amendments of the United States Constitution, Schaefer asserts Modelski committed perjury by lying during a Michigan Department of Civil Rights investigation. Am. Compl. 2, ECF No. 28. The Court referred all pre-trial proceedings to a United States magistrate judge.

Currently before the Court are several pending motions. Modelski filed a motion for judgment on the pleadings and/or summary judgment, ECF No. 42, and a motion for a protective order, ECF No. 36. Schaefer filed two motions for default judgment, ECF Nos. 29, 35, a motion for sanctions, ECF No. 30, and a motion to remove Magistrate Judge Majzoub, ECF No. 37.

On January 23, 2015, the magistrate judge issued a Report and Recommendation ("Report"), recommending the case be dismissed with prejudice. With regard to Schaefer's

perjury claim, the Report explained Schaefer failed to allege any private cause of action, and advised dismissal. Report 6–7, ECF No. 47. With regard to Schaefer’s First and Fourteenth Amendment claims, the Report reviewed the transcript of the hearing, as well as Modelski’s written decision denying reinstatement of Schaefer’s license. *Id.* at 9–10. The Report found no evidence to support either a due process claim or a finding that Modelski’s conduct substantially burdened Schaefer’s religious practice or beliefs. *Id.* The administrative hearing provided Schaefer a meaningful and timely opportunity to be heard, *see Mathews v. Elridge*, 424 U.S. 319, 333 (1976), during which Schaefer failed to present “clear and convincing evidence” warranting reinstatement of his license. Report 10–11, ECF No. 47. Given the complete absence of evidence to support Schaefer’s allegations, the Report advised granting Modelski’s motion for summary judgment. *Id.* at 11.

Civil Rule 72(b) governs review of a magistrate judge’s report and recommendation. De novo review of the magistrate judge’s findings is only required if the parties “serve and file specific written objections to the proposed findings and recommendations.” Fed. R. Civ. P. 72(b)(2). Nevertheless, because a district judge always retains jurisdiction over a motion after referring it to a magistrate judge, he is entitled to review the magistrate judge’s findings of fact and conclusions of law on his own initiative. *See Thomas v. Arn*, 474 U.S. 140, 154 (1985) (clarifying that while a district court judge need not review a report and recommendation “de novo if no objections are filed, it does not preclude further review by the district judge, sua sponte or at the request of a party, under a de novo or any other standard”).

Because neither party filed objections to the Report, de novo review of the Report’s conclusions is not required. Having reviewed the Report’s analysis, in light of the record,

the Court finds that its conclusions are factually based and legally sound. Accordingly, it will adopt the Report's findings and dismiss the complaint with prejudice.

ORDER

WHEREFORE, it is hereby **ORDERED** that the Report and Recommendation (document no. 47) is **ADOPTED**.

IT IS FURTHER ORDERED that Modelski's Motion for Summary Judgment (document no. 42) is **GRANTED**.

IT IS FURTHER ORDERED that Schaefer's Motions for Default Judgment (document nos. 29, 35), Motion for Sanctions (document no. 30), Motion for Removal of Magistrate Judge Majzoub (document no. 37), and Modelski's Motion for Protective Order (document no. 36) are **DENIED AS MOOT**.

IT IS FURTHER ORDERED that the complaint is **DISMISSED WITH PREJUDICE**.

SO ORDERED.

s/Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: February 11, 2015

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on February 11, 2015, by electronic and/or ordinary mail.

s/Carol Cohron
Case Manager